

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

No. 6:19-cv-00110

**Dana Simmons,**  
*Plaintiff,*

v.

**Commissioner, Social Security Administration,**  
*Defendant.*

Before BARKER, *District Judge*

**ORDER**

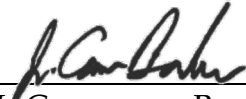
On March 26, 2019, plaintiff Dana Simmons filed this action under 42 U.S.C. § 405(g) for judicial review of defendant's decision denying plaintiff's claim for disability insurance benefits. Doc. 1. The case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. Judge Love initially recommended dismissal of plaintiff's complaint as untimely (Doc. 7) but defendant's subsequent investigation revealed plaintiff's complaint was indeed timely. Doc. 10. Judge Love then withdrew the report (Doc. 11) and ordered the parties to file briefs. Doc. 15. To date, plaintiff has neither filed a brief nor requested an extension.

On December 3, 2019, Judge Love issued a subsequent report recommending that plaintiff's complaint be dismissed without prejudice for failure to comply with the court's order to file a brief. Doc. 16. A copy of this report and recommendation was served on the parties via the court's CM/ECF electronic filing system. *Id.* Neither party filed any objections.

The court finds no "clear error on the face of the record." *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996) (*en banc*) (cleaned up). Accordingly, the report and recommendation (Doc. 16) is **adopted**. Fed. R. Civ. P. 72(b)(3). Plaintiff's complaint is **dismissed without prejudice**. In addition, plaintiff's counsel, Kami Lynn Nedbalek, is **ordered** to

reimburse plaintiff for all filing fees that plaintiff paid in this case. The payment to plaintiff shall be made no later than 30 days from the entry of this judgment, and counsel shall file a notice of compliance with the court no later than 7 days after payment is made. Failure to comply with this order will result in additional sanctions.

*So ordered by the court on December 19, 2019.*

A handwritten signature in black ink, appearing to read "J. Campbell Barker", is written over a horizontal line.

J. CAMPBELL BARKER  
United States District Judge